

From: "Magoon, Ronald" <Magoon@fsbnh.com> on 07/14/2004 04:41:08 PM

Subject: Overdraft Protection Programs

July 14, 2004

Via Electronic Mail

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Ave.
Washington, D.C. 20551

Re: Overdraft Protection Guidance; Docket Nos. OP-1198, 04-14, 2004-30

Dear Ms. Johnson:

This comment letter is submitted on behalf of Franklin Savings Bank in response to the notice of proposed guidance ("Proposed Guidance") and request for public comment by the Federal Reserve Board ("FRB"), Office of the Comptroller of the Currency ("OCC"), Federal Deposit Insurance Corporation ("FDIC"), Office of Thrift Supervision ("OTS"), and National Credit Union Administration ("NCUA"), published in the Federal Register on June 7, 2004. The Proposed Guidance is intended to assist depository institutions in the disclosure and administration of overdraft protection services. Franklin Savings Bank appreciates the opportunity to comment on this important matter.

In general, while we appreciate the desire of the Agencies to provide guidance to depository institutions on overdraft protection programs, we believe that the level of specificity in the Proposed Guidance will result in the imposition of significant costs and burdens on institutions as they seek to "comply" with the guidance. In addition, we are concerned that the guidance is so detailed that it will restrict institutions' flexibility in offering overdraft programs and actually could result in consumers being provided with fewer alternatives to address inadvertent overdrafts. Furthermore, we believe that a number of sweeping statements in the Proposed Guidance, particularly with respect to the sections on "Legal Risks" and "Best Practices," will create significant legal risks for institutions as private parties and others refer to the guidance to support legal claims. For these reasons, we encourage the Agencies to withdraw the Proposed Guidance or, alternatively, publish a revised proposal for additional public comment. As discussed below, we have a number of specific concerns about the Proposed Guidance.

Furthermore, I also have serious concerns with language within the Proposed Guidance equating our overdraft protection program to an extension of credit. The overdraft privilege program we

offer provides a level of service that is greatly appreciated by our customers. We offer it to customers once they have "satisfied" the probationary period and maintained their account in good standing. Unlike an extension of credit, we offer this opportunity to all customers. We currently pay checks written against insufficient funds for customers up to a pre-determined level. The customer incurs an NSF fee for each check that is paid against insufficient funds; however, by paying the check the customer avoids an additional returned check fee from the merchant, as well as the associated embarrassment. This program is a privilege program and if the customer does not honor their obligation with the Bank, outstanding balances must be charged-off and accounts must be closed. This is much different from a credit decision where a review the creditworthiness of each borrower is required with each extension of credit. With regard to many of the other provisions included in the Proposed Guidance such as "best practices", charge-off periods, customer opt-in provisions, customer notification etc., I strongly encourage the Agencies to not establish a "one-size fits all approach" in regulating these programs. If there are institutions that have abusive programs that unfairly disadvantage their customers, then deal with those institutions and programs directly. But it would be a shame to require Franklin Savings Bank to alter its program, which is seen as providing a valuable service by our customers, when it is operated in a fair and consistent manner. It would also be unfortunate if we were required to absorb additional expenses to manage the program as a result of increased regulatory requirements. Unfortunately as a small community bank, we are often left bearing the compliance burden that results from a few "bad apples" doing the wrong thing. Again, Franklin Savings appreciates the opportunity to comment on this important matter. If you have any questions concerning these comments, or if we may otherwise be of assistance in connection with this matter, please do not hesitate to contact me directly at 603-934-8331.

Sincerely,

Ronald L. Magoon
SVP, Treasurer & CFO

Franklin Savings Bank
387 Central Street
Franklin, NH 03235

Direct Line: 603-934-8331
Fax Line: 603-934-1420
Website: www.fsbnh.com

This footnote also confirms that this email message has been swept by the Franklin Savings Bank Mail Filter System for the presence of computer viruses.
